

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

RP.No. 978 of 2004(J)

AGAINST THE JUDGEMENT/ORDER IN OP.16897/2002 Dated 11/06/2004

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REVIEW PETITIONERS

1. THE PRINCIPAL CHIEF CONSERVATOR OF
FOREST, FOREST HEAD QUARTERS OFFICE,
THIRUVANANTHAPURAM.
2. ACCOUNTANT GENERAL (A&E) KERALA,
P.B.NO. 5607, M.G.ROAD,
THIRUVANANTHAPURAM.
3. STATE OF KERALA, REP. BY ITS SECRETARY,
FOREST DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

RESPONDENTS:

A.SHAMSUDIN, S/O.ALILKUNJU,
MENAVADI PUTHEN VEEDU, MYLAKKAD P.O.,
KOTTIYAM, KOLLAM.

BY ADV. SRI.C.RAJENDRAN
SMT.JISHAMOL CLEETUS

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 17/09/2007,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.GIRI,J.

R.P. NO.978 of 2004

in

O.P.NO.16897 of 2002

Dated this the 17th day of September, 2007

ORDER

This petition for review is filed by the State in relation to the judgment dated 11.6.2004 in O.P.16897/2002. By the judgment sought to be reviewed, this Court directed the respondents to pay to the petitioner the balance amount of DCRG, after deducting Rs.38,853/= from the total gratuity of Rs.2,67,920/= within a period of six weeks from the date of judgment and if the same had not already been disbursed to him, there was a direction for payment of interest on the amount of gratuity from 14.1.2002 at the rate of 9%. When the judgment was not implemented, the petitioner approached this Court with Contempt Case No.1536 of 2004.

2. On receipt of notice in the contempt case, it was noticed that the petitioner in the writ petition was one **A.Shamsudin** who had retired as a Range Officer on 30.9.1986. The amount of DCRG found admissible in favour of him was Rs.16,120/-. Apparently, he was also found liable to pay an amount of Rs.1,51,088/ + Rs.4914/ under two heads of liability. **Sri.M.Shamsudheen** was also working in the same department but who retired as Assistant conservator of Forests on 30.11.1999. The DCRG found admissible in favour of M.Shamudheen, Asst.Conservator of Forests was

Rs.2,67,920/=. An amount of Rs.38,853/= was fixed as his liability. When the writ petition had originally come up for hearing, it seems that the fax message was brought to the notice of this Court, in which reference is made to the sanction given from the office of the Chief Conservator of Forests on 16.1.2002, to release the DCRG to Sri.Shamsudeen after withholding the liabilities due to the Government. DCRG found admissible by the Accountant General was noted as Rs.2,67,920/= in the said case. It is on the said basis, the aforementioned directions came to be issued.

3. It is quite obvious that the writ petitioner would have been immediately apprised of the fact that an error has crept into the judgment glaringly apparent from the fact that he had retired from office in the year 1986 and obviously he could not have been sanctioned an amount of Rs.2,67,120/= as DCRG, for two reasons. Firstly, he must have known that when he retired as a Range Officer on 13.9.1986, DCRG found admissible to him by the Accountant General was only Rs.16,120/=. At the same time an amount of more than Rs.1,50,000/= had been determined as liability in so far as he is concerned. He must have definitely known that the figure Rs.2,67,920/= mentioned as DCRG found admissible by the Accountant General must either be a mistake in so far as the figure is concerned or should be treated as a figure in relation to another person. Either way, the writ petitioner must have been aware of the fact that there was an error which crept into the judgment of this Court, when a mandamus was issued for a direction to release DCRG to the petitioner, followed by even declaring that the petitioner is entitled for interest. It seems that these errors were

later brought to the notice of this Court only when the instant review petition was filed, when the department was faced with the proceedings in Contempt of Court Case initiated by the original writ petitioner.

4. I have also gone through the papers in the writ petition in view of the facts mentioned above. It is quite clear that the judgment in question is vitiated by an error apparent on the face of record. The review petition is allowed. The judgment is reviewed.

Post O.P.16897/2002 separately for hearing.

V.GIRI, JUDGE

CS/

R.P.NO.978/2004

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